

STATEMENT OF EMERGENCY
30 KAR 006:011E

This emergency administrative regulation is being promulgated to meet an imminent threat to public health, safety, or welfare. This administrative regulation will provide the procedure for those persons identified in the Address Confidentiality Program apply and receive the benefit enacted by legislation. This is being filed as an emergency administrative regulation to ensure the procedures are in effect during the Special Elections on November 2, 2021. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
MICHAEL G. ADAMS, Secretary of State

SECRETARY OF STATE
(New Emergency Administrative Regulation)

30 KAR 006:011E. Kentucky address confidentiality program.

EFFECTIVE: September 15, 2021

RELATES TO: KRS 14.300, 14.302, 14.304, 14.306, 14.310

STATUTORY AUTHORITY: KRS 14.304(2), (4), 14.306(3), (5), 14.318(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 14.318(2) authorizes the Secretary of State to promulgate administrative regulations implementing KRS 14.300 to 14.310, 14.314, and 14.316. This administrative regulation implements KRS 14.300, 14.302, 14.304, 14.306, and 14.310.

Section 1. Definitions. (1) "Address" is defined by KRS 14.300(1).

(2) "Applicant" is defined by KRS 14.300(2).

(3) "Filer" means a person who is:

(a) A:

1. Parent or guardian acting on behalf of a minor;

2. Guardian acting on behalf of a person who is declared incompetent; or

3. Designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot apply independently; and

(b) Applying to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the minor, incompetent person, or applicant.

(4) "Program Participant" is defined by KRS 14.300(5).

Section 2. Requirements for Application for Certification to Participate in the Address Confidentiality Program. (1) Application for certification to participate in the address confidentiality program shall be made to the Secretary of State by submitting a completed Application for Certification to Participate in Address Confidentiality Program.

(2) The Application for Certification to Participate in Address Confidentiality shall be:

(a) Notarized; and

(b) In English.

Section 3. Certification in the Address Confidentiality Program. (1) The Secretary of State shall approve an Application for Certification to Participate in Address Confidentiality Program and certify the applicant as a program participant if the applicant and the Application for Certification to Participate in Address Confidentiality Program meet the requirements established in KRS 14.302 and 14.304 and this administrative regulation.

(2) The Secretary of State shall notify the applicant or filer whether the Application for Certification to Participate in Address Confidentiality Program was denied or the applicant was certified as a program participant.

(a) If an Application for Certification to Participate in Address Confidentiality Program is denied, the Secretary of State shall inform the applicant or filer of the reason for the denial.

(b) If an applicant is certified as a program participant, the Secretary of State shall:

1. Assign to the program participant a participant number and designated address to be used for voting purposes; and

2. Issue to the program participant an Address Confidentiality Program Participant Card reflecting the participant number, designated address to be used for voting purposes, and date on which certification expires.

(3) If an applicant is certified as a program participant, participation in the address confidentiality program shall be effective as of the date of the notification of certification.

Section 4. Change of Program Participant's Name or Address.

(1) A program participant or a filer shall notify the Secretary of State of a change in the program participant's name or address by submitting to the Office of the Secretary of State a completed Address Confidentiality Program Participant Name or Address Change form.

(2) The Address Confidentiality Program Participant Name or Address Change form shall:

(a) Be in writing;

(b) Be in English;

(c) Be signed by the program participant or a filer;

(d) Include both the program participant's new information and information as certified; and

(e) Be considered filed on the day the Address Confidentiality Program Name or Address Change form is date-stamped received by the Office of the Secretary of State.

Section 5. Withdrawal from Participation in the Address Confidentiality Program. (1) A program participant or filer wishing to withdraw from participation in the address confidentiality program shall submit to the Secretary of State a Withdrawal from Participation in Address Confidentiality Program form.

(2) The Withdrawal from Participation in Address Confidentiality Program form shall be:

(a) In writing;

(b) In English;

(c) Signed by the program participant or a filer; and

(d) Notarized or signed by a representative of any office designated pursuant to KRS 14.310 as a referring agency who assisted in the completion of the Withdrawal from Participation in Address Confidentiality Program form.

Section 6. Confirmation by the Secretary of State of a Withdrawal from Participation in the Address Confidentiality Program. (1) Upon receiving a Withdrawal from Participation in Address Confidentiality Program form, the Secretary of State shall mail to the program participant or filer a written confirmation of withdrawal.

(2) The written confirmation shall notify the program participant or filer:

(a) Of the date on which a Withdrawal from Participation in Address Confidentiality Program form was date stamped received by the Office of the Secretary of State; and

(b) That program participation shall be terminated ten (10) days following the date of the written confirmation of withdrawal, unless the program participant or a filer notifies the Secretary of State on or before that date that the withdrawal request was not legitimate because it was not voluntarily submitted by the program participant or a filer.

Section 7. Application for Renewal of Certification in the Address Confidentiality Program.

(1) A program participant or filer wishing to renew certification in the address confidentiality program shall submit to the Secretary of State at least five (5) business days prior to the date on which the program participant's certification expires an Application for Certification to Participate in Address Confidentiality Program pursuant to Section 2 of this administrative regulation.

(2) The Application for Certification to Participate in Address Confidentiality Program shall be considered timely submitted for purposes of renewal if it is date-stamped received by the Office of the Secretary of State at least five (5) business days prior to the date on which the program participant's certification expires.

Section 8. Review by the Secretary of State of a Renewal Application for Certification to Participate in Address Confidentiality Program. (1) The Secretary of State shall approve a renewal Application for Certification to Participate in Address Confidentiality Program if the applicant and Application for Certification to Participate in Address Confidentiality Program meet the requirements established in KRS 14.302 and 14.304 and this administrative regulation.

(2) The Secretary of State shall notify the program participant or filer whether the renewal Application for Certification to Participate in Address Confidentiality Program was denied or the program participant's certification was renewed within five (5) business days after it is date-stamped received by the Secretary of State.

(a) If a renewal Application for Certification to Participate in Address Confidentiality Program is denied, the Secretary of State shall inform the program participant or filer of the reason for denial.

(b) If a program participant's certification is renewed, the Secretary of State shall issue to the program participant a new Address Confidentiality Program Participant Card pursuant to Section 3(2)(b)2 of this administrative regulation, and the renewal shall be effective as of the date of the notification of renewal.

Section 9. Appeal from Cancellation of Certification in Address Confidentiality Program. (1) A program participant or filer wishing to appeal from a cancellation of certification in the address confidentiality program shall submit to the Secretary of State an Appeal from Cancellation of Certification in Address Confidentiality Program form.

(2) The Appeal from Cancellation of Certification in Address Confidentiality Program shall be considered timely submitted if it is date-stamped received by the Secretary of State within thirty (30) days of the date of the notice of certification cancellation.

(3) The Appeal from Cancellation of Certification in Address Confidentiality Program shall:

(a) Be in writing;

(b) Be in English;

(c) Be signed by the program participant or filer; and

(d) Include information as to why certification in the address confidentiality program should not be cancelled.

(4) If an Appeal from Cancellation of Certification in Address Confidentiality Program is not timely submitted, cancellation of certification in the address confidentiality program shall be ef-

fective upon the expiration of thirty (30) days after the date of the notice of certification cancellation.

Section 10. Review by the Assistant Secretary of State of an Appeal from Cancellation of Certification in Address Confidentiality Program. (1) The Assistant Secretary of State shall approve or deny an Appeal from Cancellation of Certification in Address Confidentiality Program within five (5) business days after it is date-stamped received by the Office of the Secretary of State.

(a) The Assistant Secretary of State shall approve an Appeal from Cancellation of Certification in Address Confidentiality Program if he or she determines that grounds for cancellation pursuant to KRS 14.306 do not exist.

(b) The Assistant Secretary of State shall deny an Appeal from Cancellation of Certification in Address Confidentiality Program if he or she determines that grounds for cancellation pursuant to KRS 14.306 exist.

(2) The Assistant Secretary of State shall provide to the program participant or filer written notice of the decision regarding an Appeal from Cancellation of Certification in Address Confidentiality Program.

(3) If an Appeal from Cancellation of Certification in Address Confidentiality Program is timely submitted and denied pursuant to this section, cancellation of certification in the address confidentiality program shall be effective on the date on which the notice of denial is mailed.

(4) The decision of the Assistant Secretary of State shall conclude the appeal procedures pursuant to KRS Chapter 14 and this administrative regulation.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Certification to Participate in Address Confidentiality Program", June 2014;

(b) "Address Confidentiality Program Participant Card", March 2014;

(c) "Address Confidentiality Program Participant Name or Address Change", June 2014;

(d) "Withdrawal from Participation in Address Confidentiality Program", June 2014; and

(e) "Appeal from Cancellation of Certification in Address Confidentiality Program", March 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Secretary of State's Office, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or may be obtained at <http://www.sos.ky.gov>.

MICHAEL G. ADAMS, Secretary of State

APPROVED BY AGENCY: September 13, 2021

FILED WITH LRC: September 15, 2021 at 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2021, at 10:00 a.m. EST, at Office of the Secretary of State. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until October 31, 2021. Send written notification of intent

to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jennifer Scutchfield, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, phone (502) 782-7417, fax (502) 564-5687. Email: jscutchfield@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Scutchfield

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures for the Address Confidentiality Program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures for Address Confidentiality Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: In order for the Secretary of State to fulfill its duties under KRS 14.300, 14.302, 14.304, 14.306 and 14.310, this administrative regulation is necessary to establish the procedures for the Address Confidentiality Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to establish procedures for the Address Confidentiality Program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects citizens of the Commonwealth that are impacted by domestic violence or others facing physical or mental abuse if their address were public record.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individuals identified in question (3) will have to familiarize themselves with this regulation and contact our office with questions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Secretary of State will incur costs with mailing and printing.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be protected from persons who pose them danger by not allowing those people to access their location.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The cost is minimal.

(b) On a continuing basis: The cost is minimal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The legislature provided funding for the ACP.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: An increase in fees or funding will not be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This regulation will impact the Office of the Secretary of State and the State Board of Elections.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 14.300, 14.302, 14.304, 14.306 and 14.310.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any additional revenue for state or local governments during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? The administration cost is minimal.

(d) How much will it cost to administer this program for subsequent years? The administration cost will be minimal.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: